



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3821-02
6 December 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 December 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 27 September 1972 at the age of 17. On 12 December 1973 you were convicted by special court-martial (SPCM) of a 160 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for two and a half months and a \$600 forfeiture of pay.

On 26 February 1974 you received nonjudicial punishment (NJP) for a one day period of UA and were awarded restriction for 30 days. On 2 May 1974 you were convicted by SPCM of four specifications of failure to go to your appointed place of duty, failure to obey a lawful order, and making a false official statement. You were sentenced to reduction to paygrade E-1, confinement at hard labor for two months, and an \$800 forfeiture of pay, half of which was suspended for 12 months.

Subsequently, you were notified of pending administrative separation action by reason of unfitness. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board. On 22 May 1974 your commanding officer recommended you be issued an undesirable

discharge by reason of unfitness. On 23 June 1974 the discharge authority approved this recommendation, but suspended execution of the discharge for six months.

During the period from 17 July to 19 August 1974 you were absent from your appointed place of duty on one occasion, and in a UA status on two occasions for a total of 30 days. On 12 September 1975 your commanding officer recommended that the suspended discharge awarded on 23 June 1974 be vacated due to your continued misconduct. This recommendation was approved, and on 23 September 1974 the discharge authority directed an other than honorable discharge. On 27 September 1974 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you did not contest your discharge because you did not know that you could. Nevertheless, the Board concluded recharacterization of your discharge was not warranted because of your repetitive misconduct which resulted in NJP and two court-martial convictions, one of which was for a lengthy period of UA. The Board also noted that your discharge was suspended, thus giving you the opportunity to earn a better characterization of service, but you failed to do so and committed further offenses. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director